

Proposed Competing Schedules

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
MIDLAND-ODESSA DIVISION**

VIRTAMOVE, CORP.,

Plaintiff,

v.

GOOGLE LLC,

Defendant.

Case No. 7:24-cv-00033-DC-DTG

JURY TRIAL DEMANDED

SCHEDULING ORDER

On May 30, 2024, the Court conducted a conference in the above entitled and numbered case.

All parties appeared through counsel. As a result of such hearing, and pursuant to Rule 16, Federal Rules of Civil Procedure, the Court **ORDERS** that the following schedule will govern deadlines up to and including the trial of this matter:

Deadline	VM's Date	Google's Date
Plaintiff serves preliminary[1] infringement contentions in the form of a chart setting forth where in the accused product(s) each element of the asserted claim(s) are found. Plaintiff shall also identify the earliest priority date (i.e. the earliest date of invention) for each asserted claim and produce: (1) all documents evidencing conception and reduction to practice for each claimed invention, and (2) a copy of the file history for each patent in suit.	6/25/24	6/25/24
Deadline for any venue or jurisdictional motion without good cause.	6/25/24 Needed to avoid late motions that delay Markman	Google opposes inclusion of this date. Not part of Midland OGP, date is contrary to Waco OGP, and not related to Markman.

Defendant serves preliminary invalidity contentions in the form of (1) a chart setting forth where in the prior art references each element of the asserted claim(s) are found, (2) an identification of any limitations the Defendant contends are indefinite or lack written description under section 112, and (3) an identification of any claims the Defendant contends are directed to ineligible subject matter under section 101. Defendant shall also produce (1) all prior art referenced in the invalidity contentions, and (2) technical documents, including software where applicable, sufficient to show the operation of the accused product(s).	8/27/24 (+9w)	9/10/24 (including 3 additional weeks from default in OGP)
Parties exchange claim terms for construction.	9/3/24 (+1w) (to accommodate extra week for Google's contentions)	9/17/24 (uses VM's requested 1 week rather than default timing of 2 weeks in Midland OGP)
Parties exchange proposed claim constructions.	9/17/24 (+2w)	10/1/24
Parties disclose extrinsic evidence. The parties shall disclose any extrinsic evidence, including the identity of any expert witness they may rely upon with respect to claim construction or indefiniteness. With respect to any expert identified, the parties shall identify the scope of the topics for the witness's expected testimony. With respect to items of extrinsic evidence, the parties shall identify each such item by production number or produce a copy of any such item if not previously produced.	9/24/24 (+1w)	10/8/24
Deadline to meet and confer to narrow terms in dispute and exchange revised list of terms/constructions.	10/1/24 (+1w)	10/15/24
Defendant files Opening claim construction brief, including any arguments that any claim terms are indefinite.	10/8/24 (+1w)	10/22/24
Plaintiff files Responsive claim construction brief.	10/29/24 (+3w)	11/12/24
Defendant files Reply claim construction brief.	11/12/24 (+2w)	11/26/24
Plaintiff files Sur-Reply claim construction brief.	12/3/24 (+3w)	12/13/24

	(extra time for Thanksgiving)	(providing additional time for Thanksgiving)
Parties submit Joint Claim Construction Statement. See General Issues Note #9 regarding providing copies of the briefing to the Court and the technical adviser (if appointed).	12/6/24 (+3d)	12/18/24
Parties submit optional technical tutorials to the Court and technical adviser (if appointed).	12/10/24 (+1w)	12/20/24
Markman Hearing	12/17/24 (+1w)	1/9/25
Fact Discovery opens; deadline to serve Initial Disclosures per Rule 26(a). <i>Discovery commences on all issues.</i>	12/18/24 (+1d)	1/10/25
Deadline to add parties. <i>All motions to . . . add parties shall be filed on or before this date.</i>	1/28/25 (+6w)	2/20/25
Deadline to serve Final Infringement and Invalidity Contentions. After this date, leave of Court is required for any amendment to Infringement or Invalidity contentions. This deadline does not relieve the Parties of their obligation to amend if new information is identified after initial contentions.	2/11/25 (+2w)	3/6/25
Deadline to amend pleadings. A motion is not required unless the amendment adds patents or patent claims. (Note: This includes amendments in response to a 12(c) motion.). <i>All motions to amend pleadings . . . shall be filed on or before this date.</i>	4/8/25 (+8w)	5/15/25
Deadline for the first of two meet and confers to discuss significantly narrowing the number of claims asserted and prior art references at issue. Unless the parties agree to the narrowing, they are ordered to contact the Court to arrange a teleconference with the Court to resolve the disputed issues.	6/17/25 (+10w)	7/3/2025 (1 day earlier than Midland OGP due to holiday)
Close of Fact Discovery	7/8/25 (+3w) (reduced by 1 week)	7/31/25
Opening Expert Reports. <i>Parties with burden of proof to designate Expert Witnesses and provide their expert witness reports, to include all information</i>	7/29/25 (+3w) (adds additional 2 weeks to	8/14/25 (adds additional 1 week to Midland OGP default)

<i>required by Rule 26(a)(2)(B).</i>	Midland OGP default)	
Rebuttal Expert Reports. <i>Parties shall designate Rebuttal Expert Witnesses on issues for which the parties do not bear the burden of proof, and provide their expert witness reports, to include all information required by Rule 26(a)(2)(B).</i>	8/26/25 (+4w)	9/16/25 (adds additional time for holiday)
Close of Expert Discovery. <i>Expert Discovery Deadline. Expert discovery must be completed by this date.</i>	9/16/25 (+3w)	10/7/25
Deadline for the second of two meet and confer to discuss narrowing the number of claims asserted and prior art references at issue to triable limits. To the extent it helps the parties determine these limits, the parties are encouraged to contact the Court for an estimate of the amount of trial time anticipated per side. The parties shall file a Joint Report within 5 business days regarding the results of the meet and confer.	9/23/25 (+1w)	10/14/25
Dispositive motion deadline and Daubert motion deadline.	9/30/25 (+1w)	10/28/25 (added 1 week to 1 week OGP default deadline)
Deadline to file the joint report regarding results of meet and confer. <i>Any objection to the reliability of an expert's proposed testimony under Federal Rule of Evidence 702 shall be made by motion, specifically stating the basis for the objection and identifying the objectionable testimony, not later than 14 days of receipt of the written report of the expert's proposed testimony or not later than 14 days of the expert's deposition, if a deposition is taken, whichever is later. The failure to strictly comply with this paragraph will be deemed a waiver of any objection that could have been made pursuant to Federal Rule of Evidence 702</i>	9/30/25 (+1w)	Not part of Midland OGP

<p><i>All dispositive motions shall be filed and served on all other parties on or before this date and shall be limited to 25 pages. Responses shall be filed and served on all other parties not later than 14 days after the service of the motion and shall be limited to 20 pages. Any replies shall be filed and served on all other parties not later than 7 days after the service of the response and shall be limited to 10 pages, but the Court need not wait for the reply before ruling on the motion.</i></p>		
<p><i>Deadline for parties desiring to consent to trial before the magistrate judge to submit Form AO 85, "Notice, Consent, And Reference Of A Civil Action To A Magistrate Judge," available at https://www.uscourts.gov/forms/civil-forms/notice-consent-and-reference-civil-action-magistrate-judge.</i></p>	9/30/25 (--)	Not part of Midland OGP
<p><i>By this date the parties shall meet and confer to determine pre-trial deadlines, including, inter alia, exchange of exhibit lists, designations of and objections to deposition testimony, and exchange of demonstratives.</i></p>	10/7/25 (--)	Not part of Midland OGP
<p>Serve Pretrial Disclosures (jury instructions, exhibits lists, witness lists, discovery and deposition designations).</p> <p><i>By this date the parties shall exchange a proposed jury charge and questions for the jury. By this date the parties will also exchange draft Motions in Limine to determine which may be agreed.</i></p>	10/14/25 (Motion +2w)	11/12 (1 day later due to holiday) Language in italics Not part of Midland OGP
<p>Parties to contact Court to confirm their pretrial conference and trial dates.</p>	11/3/25 (T-8w)	12/15/25
<p>Serve objections to pretrial disclosures/rebuttal disclosures.</p> <p><i>By this date the parties shall exchange any objections to the proposed jury charge, with supporting explanation and citation of controlling law.</i></p>	10/28/25 (+2w)	12/3/25 (additional time for Thanksgiving)
<p>Serve objections to rebuttal disclosures and File Motions in-limine.</p>	11/4/25 (+1w)	12/10/25

<i>By this date the parties shall also submit to the Court their Motions in Limine.</i>		
File Joint Pretrial Order and Pretrial Submissions (jury instructions, exhibits lists, witness lists, discovery and deposition designations); file oppositions to motions <i>in limine</i> . <i>By this date the parties will submit to the Court their Joint Pre-Trial Order, including the identification of issues to be tried, identification of witnesses, trial schedule provisions, and all other pertinent information. By this date the parties will also submit to the Court their oppositions to Motions in Limine.</i>	11/12/25 (+1w1d) (avoids holiday)	12/23/25 (added additional 6 days)
Deadline to meet and confer regarding remaining objections and disputes on motions <i>in limine</i> .	11/18/25 (+1w)	1/9/26 (added additional time for holidays)
File joint notice identifying remaining objections to pretrial disclosures and disputes on motions <i>in limine</i> .	11/24/25 (+1w)	1/20/26
Final Pretrial Conference. Held in person. <i>The parties shall provide to the Court an agreed jury charge with supported objections of each party, and proposed questions for the jury, at the final Pre-Trial Conference.</i>	12/2/25 (M+50w) (extended for Thanksgiving)	1/23/26
<i>The parties asserting claims for relief shall submit a written offer of settlement to opposing parties on or before this date. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.</i>	12/5/25 ---	Not part of Midland OGP
<i>Each opposing party shall respond, in writing, to the written offer of settlement made by the parties asserting claims for relief by this date. All offers of settlement are to be private, not filed, and the Court is not to be advised of the same. The parties are further ORDERED to retain the written offers of settlement and responses as the Court will use these in assessing attorney's fees and court costs at the conclusion of trial.</i>	12/10/25 ---	Not part of Midland OGP

Jury Selection/Jury Trial Commences	12/15/25 (M+52w)	2/9/26
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SIGNED this _____ day of _____, 20____.

DEREK T. GILLILAND
UNITED STATES MAGISTRATE JUDGE